

## Message Text

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PAGE 01 GENEVA 00637 01 OF 02 311250Z

ACTION EB-08

INFO OCT-01 IO-13 ISO-00 XMB-02 OPIC-03 STRE-00 AF-08  
ARA-06 EA-07 EUR-12 NEA-10 OIC-02 FEA-01 AGRE-00  
CEA-01 CIAE-00 COME-00 DODE-00 FRB-03 H-01 INR-07  
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05  
CIEP-01 SS-15 STR-04 ITC-01 TRSE-00 USIA-06 PRS-01  
SP-02 OMB-01 /139 W

-----311322Z 122226 /43

R 311136Z JAN 77

FM USMISSION GENEVA

TO SECSTATE WASHDC 4851

INFO ALL OECD CAPS 149

LIMITED OFFICIAL USE SECTION 1 OF 2 GENEVA 0637

PASS STR AND AGRICULTURE

EO 11652: NA

TAGS: ETRD, GATT

SUBJ: ARTICLE XXII:1 CONSULTATIONS ON U.S. BEEF QUOTAS

REF: A. GENEVA 0487, B. 76 STATE 278102

1. ON JANUARY 27 ARTICLE XXII:1 CONSULTATIONS ON U.S. MEAT IMPORT QUOTAS WERE HELD. THESE CONSULTATIONS TOOK PLACE AT THE REQUEST OF NEW ZEALAND AND WITH THE PARTICIPATION OF AUSTRALIA AND THE EC. THE CONSULTATIONS WERE IN LOW KEY AND CONSISTED ALMOST ENTIRELY OF A DIALOGUE BETWEEN THE U.S. AND NEW ZEALAND WHICH WAS SECONDED BY AUSTRALIA. THE EC, WHICH WAS REPRESENTED BY COMMISSION AND MEMBER STATE OFFICIALS, MERELY OBSERVED BUT DID NOT INTERVENE IN THE DEBATE.

2. NEW ZEALAND REGRETTED THAT CONSULTATIONS COULD NOT BE HELD EARLIER; APPRECIATED U.S. WILLINGNESS TO CONSULT AND STRESSED THAT EVEN AFTER THE REMOVAL OF THE U.S. MEAT IMPORT  
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PAGE 02 GENEVA 00637 01 OF 02 311250Z

QUOTAS, IT IS APPROPRIATE TO REVIEW THIS ACTION PARTICULARLY IN THE LIGHT OF THE QUESTIONABLE GATT CONSISTENCY OF THE U.S. MEAT LAW. THE IMPORTANCE OF THE U.S. ACTION FOR NEW ZEALAND STEMS FROM THE FACT THAT FIFTY-FOUR PERCENT OF NZ EXPORTS TO THE U.S. CONSIST OF BEEF AND REPRESENT TWO-THIRDS OF ALL NZ BEEF EXPORTS.

3. NZ DEL RAISED QUESTION WHETHER U.S. MEAT LAW IS CONSISTENT WITH GATT. THEY RECALLED THAT THIS WAS A DORMANT ISSUE UNTIL NOW, ALTHOUGH THE LAW HAD BEEN REVIEWED IN THE GATT IN 1965. HOWEVER, THEY SAID THAT AT THAT TIME THE GATT COMPATIBILITY OF THE U.S. MEAT LAW WAS NOT PART OF THE REVIEW SINCE U.S. DEL HAD TAKEN THE POSITION THAT THIS QUESTION WAS NOT WITHIN THE COMPETENCE OF THE REVIEWING GROUP BECAUSE U.S. HAD NOT APPLIED IMPORT QUOTAS.

4. NZ DEL EXPRESSED STRONG DISAPPOINTMENT THAT U.S. HAD NOT INVOKED ANY GATT ARTICLE TO JUSTIFY QUOTAS. THIS, HE SAID, WAS STRANGE SINCE THE U.S. HAD STATED IN THE MTN SAFEGUARD GROUP THAT A GATT JUSTIFICATION OF IMPORT RESTRICTIONS MUST BE GIVEN. IN NEW ZEALAND'S VIEW ARTICLE XI(2)(C) DOES NOT OFFER ANY JUSTIFICATION FOR THE U.S. ACTION, NOR COULD THIS ACTION BE JUSTIFIED ON BASIS OF ARTICLE XIX. THIS LATTER ARTICLE PRESUPPOSES AN EMERGENCY SITUATION WHICH, AS NEW ZEALAND SEES IT, DID NOT EXIST BECAUSE NZ EXPORTS TO THE U.S. HAD EXCEEDED THE TRIGGER LEVEL BY ONLY 1.39 PERCENT AND THERE WAS NO DROP IN PRICES. NEW ZEALAND DEL STATED THAT U.S. MEAT QUOTA ACTION WAS THEREFORE INCONSISTENT WITH GATT OBLIGATIONS AND MAY BE DESCRIBED AS ANTICIPATORY SAFEGUARD MEASURES. WHILE REALIZING POSITIVE ASPECTS OF U.S. MEAT IMPORT REGIME, NEW ZEALAND BELIEVES THAT A REVIEW OF THIS REGIME INCLUDING A REVIEW OF VRA'S AND THEIR COMPATITBLITY WITH GATT WOULD BE TIMELY. IN CONCLUSION NEW ZEALAND EX-

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PAGE 03 GENEVA 00637 01 OF 02 311250Z

PRESSED HOPE THAT U.S. MEAT QUOTA ACTION WAS AN ABER-  
RATION AND WILL NOT RECUR.

5. AUSTRALIAN DEL STRESSED THAT U.S. MEAT QUOTA IN-  
CONSISTENT WITH GATT. HE ALSO STATED THAT THE FACT  
THAT GATT HAS NEVER FULLY REVIEWED U.S. MEAT LAW  
SHOULD NOT BE TAKEN AS TACIT CONSENT TO ITS LEGALITY.

6. U.S. DEL AGREED THAT IT IS APPROPRIATE TO CONSULT  
ON GATT CONSISTENCY ALSO OF PAST ACTIONS WHICH HAVE  
BEEN MEANWHILE TERMINATED. WE THEN REVIEWED THE  
HISTORY OF THE U.S. MEAT LAW WHICH, FAR FROM BEING RE-  
STRICTIVE, HAS PERMITTED TREMENDOUS INCREASE IN U.S.  
MEAT IMPORTS. THUS IN 1976, WHEN QUOTA ACTION TAKEN,  
U.S. MEAT IMPORTS UNDER THE LAW EXCEEDED THOSE OF THE  
LAW'S BASE PERIOD BY 70 PERCENT AND U.S. ACCOUNTED FOR  
ABOUT ONE-THIRD OF THE WORLD'S TOTAL BEEF IMPORTS, A  
RECORD FAR BETTER THAN THAT OF ANY OTHER BEEF IMPORTING  
COUNTRY. U.S. DEL ALSO POINTED OUT THAT U.S. MEAT LAW

NOT PROTECTIONISTIC IN THE SENSE THAT IT DOES NOT LIMIT IMPORTS IF DOMESTIC DEMAND IS FALLING. ON THE OTHER HAND IT POSSESSES GREAT FLEXIBILITY SINCE ITS QUOTA PROVISIONS ARE NOT RIGIDLY TIED TO FORMULA BUT ALLOW FOR DISCRETIONARY AUTHORITY IN SETTING IMPORT LIMITS.

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PAGE 01 GENEVA 00637 02 OF 02 311253Z  
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DODE-00 FRB-03 H-01 INR-07 INT-05 L-03 LAB-04 NSAE-00  
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R 311136Z JAN 77  
FM USMISSION GENEVA  
TO SECSTATE WASHDC 4852  
INFO ALL OECD CAPS 150

LIMITED OFFICIAL USE SECTION 2 OF 2 GENEVA 0637

PASS STR AND AGRICULTURE

AS REGARDS THE U.S. IMPORT QUOTAS, U.S. DEL POINTED OUT THAT THEY WERE OF VERY SHORT DURATION, DID NOT REDUCE IMPORTS BELOW THE LEVEL EXPECTED PRIOR TO THEIR IMPOSITION, AND PERMITTED TOTAL IMPORTS UNDER THE LAW TO EXCEED THE VOLUME OF 1975 IMPORTS. WHILE NOT CLAIMING THAT U.S. ACTION MET GATT CRITERIA, U.S. POINTED OUT THAT WE HAD NOTIFIED GATT OF U.S. ACTION PROMPTLY. MOREOVER, CONTRARY TO NEW ZEALAND ASSERTION THAT MARKETS WERE NOT DISTURBED, U.S. DEL STATED THAT ON THE BASIS OF UNUSUALLY HEAVY IMPORTS FROM CANADA, AUSTRALIAN AND NEW ZEALAND SHIPMENTS THROUGH FREE TRADE ZONES IN CIRCUMVENTION OF MEAT LAW AND WEAKENING PRICES, A GOOD CASE FOR MARKET DISTURBANCE OR AT LEAST THE THREAT THEREOF COULD HAVE BEEN MADE.

7. IN CONCLUSION NZ ADMITTED THAT U.S. HAS ACTED IN A REASONABLE WAY, ASKED WHETHER IT COULD BE ASSURED

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PAGE 02 GENEVA 00637 02 OF 02 311253Z

THAT U.S. QUOTA ACTION WOULD NOT RECUR AND REPEATED THAT ITS RIGHTS WERE SOMEWHAT JEOPARDIZED SINCE U.S. UNABLE TO JUSTIFY ITS ACTION UNDER ARTICLE XIX. U.S. EXPRESSED STRONG HOPE THAT IN FUTURE EVERYBODY'S ACTION WILL BE GATT CONSISTENT, INCLUDING ACTION OF OTHER IMPORTING COUNTRIES WHOSE IMPORT RESTRICTIONS HAVE SPILLOVER EFFECT ON U.S. MARKET.

8. NEW ZEALAND STATED THAT THEY MIGHT WISH TO GIVE AN EXTENSIVE REPORT OF THESE CONSULTATIONS TO GATT COUNCIL. U.S. DEL THOUGHT THAT IT WOULD BE SUFFICIENT TO INFORM COUNCIL THAT CONSULTATIONS HAVE TAKEN PLACE BUT DID NOT WISH TO INHIBIT NEW ZEALAND FROM MAKING MORE DETAILED REPORT. CATTO

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